

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY, NEWARK DIVISION**

IN RE ALLERGAN ERISA LITIGATION

Master File No.: 2:17-cv-1554  
(SDW-LDW) (Consolidated  
Action)

**DEFENDANTS' NOTICE OF  
MOTION TO DISMISS THE  
CONSOLIDATED CLASS  
ACTION COMPLAINT AND  
TO STRIKE PLAINTIFFS'  
DEMAND FOR A JURY TRIAL**

THIS DOCUMENT RELATES TO: ALL  
ACTIONS

**Oral Argument Requested**

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**DEFENDANTS' NOTICE OF MOTION TO DISMISS THE CONSOLIDATED CLASS  
ACTION COMPLAINT AND TO STRIKE PLAINTIFFS' DEMAND FOR A JURY TRIAL**

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Robert D. Towey (NJ Bar No.  
024101984)  
Joseph F. Falgiani (NJ Bar No.  
027861980)  
Becker LLC  
354 Eisenhower Parkway  
Plaza II, Suite 1500  
Livingston, New Jersey 07039  
Telephone: (973) 442-1100  
Facsimile: (973) 442-9122

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Robert D. Eassa (*pro hac vice*)  
Anjuli M. Cargain (NJ Bar No. 05172009)  
Duane Morris LLP  
Spear Tower  
One Market Plaza, Suite 2200  
San Francisco, CA 94105-1127  
Telephone: (415) 957-3000  
Facsimile: (415) 957-3001

*Attorneys for Defendants*

**PLEASE TAKE NOTICE** Defendants Allergan PLC, Allergan Benefits Committee, Allergan Oversight Committee, Allergan Investment Committee, Karen Ling, Bryan Kavanaugh, Teresa Hilado, Robert Stewart, James D'Arecca, Stephen Kaufold, Eric Stern, Kellie Sears, Kristen Allgor, Kate DiMarco, Brent L. Saunders, Nesli Basgoz, Paul Bisaro, James H. Bloem, Christopher J. Coughlin, Christopher W. Bodine, Michael Gallagher, Catherine M. Klema, Peter J. McDonnell, Patrick J. O'Sullivan, Ronald R. Taylor and Fred G. Weiss ("Defendants") will move before the Honorable Susan D. Wigenton, United States District Judge, for an Order dismissing the Consolidated Class Action Complaint ("Complaint") in its entirety with prejudice, and striking Plaintiffs' demand for a jury trial. Defendants' Motion is brought on the following grounds:

(1) The Complaint, alleging breach of a fiduciary duty of prudence and loyalty under the Employee Retirement Income Security Act of 1974 ("ERISA") does not satisfy the exacting pleading standard set forth by the Supreme Court in *Fifth Third Bancorp v. Dudenhoeffer*, 134 S. Ct. 2459 (2014) and *Amgen Inc. v. Harris*, 136 S. Ct. 758 (2016);

(2) The Complaint does not plausibly allege the existence of material information that Allergan misrepresented or improperly failed to disclose or that the individual Defendants knew of any nonpublic information that Allergan's Stock price was inflated due to price-fixing of generic drugs during the Class Period;

(3) The Complaint, alleging a failure of the duty to monitor and/or breach of co-fiduciary liability fails because the Complaint does not adequately plead that there was a primary breach of a fiduciary duty;

(4) There is no basis to conclude that the Complaint's deficiencies can be cured, thus warranting dismissal with prejudice of the Complaint in its entirety; and

(5) Plaintiffs are not entitled to a jury because their claims are for equitable relief under ERISA.

The grounds for this motion are fully set forth in the Memorandum of Law in Support of Defendants' Motion, and the Request for Judicial Notice, filed concurrently herewith.

Respectfully submitted,

Dated: February 2, 2018

BECKER LLC

/s/ Joseph F. Falgiani

Robert D. Towey (NJ Bar No. 024101984)  
Joseph F. Falgiani (NJ Bar No. 027861980)  
Becker LLC  
354 Eisenhower Parkway  
Plaza II, Suite 1500  
Livingston, New Jersey 07039  
Telephone: (973) 442-1100  
Facsimile: (973) 442-9122

Dated: February 2, 2018

DUANE MORRIS LLP

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Robert D. Eassa (*pro hac vice*)  
Anjuli M. Cargain (NJ Bar No. 05172009)  
Duane Morris LLP  
Spear Tower  
One Market Plaza, Suite 2200  
San Francisco, CA 94105-1127  
Telephone: (415) 957-3000  
Facsimile: (415) 957-  
3001 (415) 957-  
3001Email  
: [robert.eassa@sedgwicklaw.com](mailto:robert.eassa@sedgwicklaw.com)

Attorneys for Defendants,  
Allergan PLC, Allergan Benefits  
Committee, Allergan Oversight  
Committee, Allergan Investment  
Committee, Karen Ling, Bryan  
Kavanaugh, Teresa Hilado, Robert  
Stewart, James D'Arecca, Stephen  
Kaufold, Eric Stern, Kellie Sears,

Kristen Allgor, Kate Dimarco, Brent L. Saunders, Nesli Basgoz, Paul Bisaro, James H. Bloem, Christopher J. Coughlin, Christopher W. Bodine, Michael Gallagher, Catherine M. Klema, Peter J. McDonnell, Patrick J. O'Sullivan, Ronald R. Taylor, Fred G. Weiss